In the Supreme Court of the United States

OCTOBER TERM, 1966

No. 1035

LEWIS A. PALEY, PETITIONER

v.

EDWARD L. BRENNER, JOHN T. CONNOR, STEVE BABYAR AND ANGELA B. BERG

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

Petitioner brought this action against respondents Brenner (the Commissioner of the Patent Office), Connor (the then Secretary of Commerce) and Babyar and Berg (employees of the office of the United States Attorney for the Northern District of Illinois), charging numerous instances of misconduct, such as that in the operation of the Patent Office respondents

Brenner and Connor were guilty of "an illegal confidence game" and "obtaining money under false pretenses"; that Brenner was "the recognized leader of the firing squads in the Patent Office"; and that Babyar and Berg had committed perjury. On the basis of these allegations petitioner sought damages of $4,500,000,[1] a writ of mandamus, various types of injunction, and punishment of the respondents for contempt of court.

Respondents filed a motion to dismiss the amended complaint on various grounds, including lack of jurisdiction, insufficiency of service of process, and failure to state a claim upon which relief could be granted. The district court granted the motion to dismiss and denied a request for a change of venue. The Court of Appeals for the Seventh Circuit affirmed, and also denied petitioner's request that the court issue a writ of mandamus and a preliminary injunction. The court pointed out that the petitioner had failed to serve process on respondents Brenner and Connor, that the amended complaint failed to allege a basis for the court's jurisdiction, and that the complaint also failed to state a claim. The court ordered that the pleadings and briefs filed by petitioner be stricken as impertinent and scandalous.

The decision below is correct, and the petition for certiorari manifestly does not present a substantial

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[1] In the petition for certiorari, petitioner now claims $15,000,000 additional damages.

question. Accordingly, it is respectfully submitted that the petition should be denied.

THURGOOD MARSHALL,
Solicitor General.

MARCH 1967.

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